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6 **UNITED STATES DISTRICT COURT**
7 **WESTERN DISTRICT OF WASHINGTON**
8 **AT SEATTLE**

9 JAMES MCDONALD,

10 Plaintiff,

11 v.

12 ONEWEST BANK, FSB, NORTHWEST
13 TRUSTEE SERVICES, INC., MORTGAGE
14 ELECTRONIC REGISTRATION SYSTEMS,
INC., INDYMAC BANK FSB, DOES 1-50,

Defendants.

No. C10-1952 RSL

**DECLARATION OF JC SAN PEDRO
IN SUPPORT OF DEFENDANTS'
OPPOSITION TO PLAINTIFF'S
REQUEST FOR TRO**

15 I, JC San Pedro, hereby declare:

16 1. I am a Vice President of IndyMac Mortgage Services, a division of OneWest
17 Bank, FSB ("OneWest"), Defendant herein. This Declaration is made in support of
18 Defendants' Opposition to Plaintiff's request for Temporary Restraining Order. I am familiar
19 with the loan transactions at issue in this litigation, and make my declaration based on my
20 review and understanding of records that OneWest Bank maintains in the ordinary course of
21 business. I have reviewed the records that pertain to the McDonald Loan and as to the
22 following facts, I know them to be true of my own knowledge or I have gained knowledge of
23 them from the business records of OneWest on behalf of OneWest, which records were made
24 at or about the time of the events recorded, and are maintained in the ordinary course of
25 OneWest's business at or near the time of the acts, conditions or events to which they relate.

26 Any such document was prepared in the ordinary course of business of OneWest by a person

DECLARATION OF JC SAN PEDRO
IN SUPPORT OF DEFENDANTS' OPPOSITION – PAGE 1 OF 3
CASE NO. C10-1952 RSL

ROUTH
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1 who had personal knowledge of the event being recorded and had or has a business duty to
2 record accurately such event. As to OneWest's business records that consist of documents
3 created by third parties, OneWest relies on the accuracy of such records in conducting its
4 business. If called as a witness, I could testify competently thereto.

5 2. Freddie Mac is the investor on the Loan, and prior to March 2009, IndyMac
6 serviced the loan for Freddie Mac.

7 3. In March 2009, OneWest Bank Group LLC acquired IndyMac's assets and
8 operations from the FDIC. Pursuant to this purchase, OneWest acquired all home mortgage
9 loans owned by IndyMac at the time IndyMac went into receivership and all servicing rights
10 on Freddie Mac loans, including the servicing rights to Plaintiff McDonald's loan that is the
11 subject of this lawsuit.

12 4. OneWest services the loan on behalf of Freddie Mac pursuant to a servicing
13 agreement. As part of that servicing agreement, OneWest has possession of the Note, which
14 is endorsed in blank and attached to Defendants' Opposition as **Exhibit 1**, and is entitled to
15 collect payments, initiate foreclosure upon borrower's default, and review Plaintiff's loan for
16 possible modification in accordance with investor guidelines.

17 5. Plaintiff defaulted by failing to make the payment due on October 1, 2009,
18 and every payment thereafter due.

19 6. The Assignment, which is attached to Defendants' Opposition as **Exhibit 3**,
20 from MERS to OneWest was signed by Brian Burnett.

21 7. Brian Burnett is an employee of OneWest and has signing authority on behalf of
22 MERS.

23 8. In April 2010, Plaintiff applied for a HAMP modification review of his loan,
24 which was later denied.
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